

MONTANA LEGISLATIVE HISTORY

Chapter 494 19 55

Bill H _____ S 291 Original bill & history C

H. Committee on Women Services & Aging

Hearing Date(s) Mar 07 ✓ C

Mar 10 ✓ C

_____ C

_____ C

Date Out Mar 17 ✓ C

S. Committee on Public Health, Welfare & Safety

Hearing Date(s) Feb 08 ✓ C

_____ C

_____ C

_____ C

Feb 08 ✓ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

SB 271 INTRODUCED BY BURNETT, ET AL.

DECLARE POLICY OF THE STATE TO PLACE A CHILD REMOVED FROM THE HOME WITH THE EXTENDED FAMILY UPON DEPARTMENT OF FAMILY SERVICES' APPROVAL OF THE HOME

1/30	INTRODUCED		
1/30	FIRST READING		
1/30	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
2/08	HEARING		
2/08	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/13	2ND READING PASSED	50	0
2/14	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
2/20	FIRST READING		
2/20	REFERRED TO HUMAN SERVICES & AGING		
3/03	HEARING		
3/13	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/27	2ND READING CONCURRED	97	0
3/28	3RD READING CONCURRED	97	1
	RETURNED TO SENATE WITH AMENDMENTS		
4/01	2ND READING AMENDMENTS CONCURRED	46	0
4/03	3RD READING AMENDMENTS CONCURRED	45	0
4/08	SIGNED BY PRESIDENT		
4/08	SIGNED BY SPEAKER		
4/10	TRANSMITTED TO GOVERNOR		
4/15	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 494		
	EFFECTIVE DATE: 10/01/95		

SB 272 INTRODUCED BY GROSFIELD

ELIMINATE, UNDER CERTAIN CONDITIONS, REQUIREMENT THAT SURVIVING SPOUSE OF A JOINT TENANCY THAT DOES NOT REQUIRE A PERSONAL REPRESENTATIVE FILE AN APPLICATION WITH THE DEPARTMENT OF REVENUE FOR INHERITANCE TAX PURPOSES

1/30	INTRODUCED		
1/30	FIRST READING		
1/30	REFERRED TO JUDICIARY		
1/31	FISCAL NOTE REQUESTED		
2/01	FISCAL NOTE RECEIVED		
2/01	FISCAL NOTE PRINTED		
2/02	HEARING		
2/02	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/03	2ND READING PASSED	49	0
2/04	3RD READING PASSED	45	0
	TRANSMITTED TO HOUSE		
2/06	FIRST READING		
2/06	REFERRED TO JUDICIARY		
3/08	HEARING		
3/16	COMMITTEE REPORT—BILL CONCURRED		
3/25	2ND READING CONCURRED	97	0
3/27	3RD READING CONCURRED	98	0
	RETURNED TO SENATE		
4/06	SIGNED BY PRESIDENT		
4/06	SIGNED BY SPEAKER		
4/07	TRANSMITTED TO GOVERNOR		
4/12	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 391		
	EFFECTIVE DATE: 04/12/95		

Hank Hudson replied, because the records have been destroyed, it would have to be an entirely new investigation without the past records being a factor.

SENATOR KLAMPE asked whether the past records could be used in court.

Hank Hudson said he didn't think that would happen.

SENATOR MOHL asked how DFS came up with the 3-year time to keep records.

Hank Hudson said he thinks three years is probably a nationwide standard, and if there are no further allegations, then probably there wouldn't be more.

SENATOR MOHL asked, in the past, how many cases come back after three years.

Hank Hudson said if there was a single unsubstantiated allegation, and nothing comes back within 3 years, there probably is no problem with safety of the family. Families who are going to have serious problems providing a safe environment for their children are going to have that problem with a high frequency, and there would be more instances long before the three-years. The problem would not just go away.

Closing by Sponsor:

SENATOR BURNETT said SB 270 gives rights to the individual because many times there are accusations when there is no actual abuse. He said the biggest problem of unfounded allegations are in child custody and divorce cases.

Hearing closed on SB 270.

HEARING ON SB 271

Opening Statement by Sponsor:

SENATOR JIM BURNETT, SD 12, Luther, said SB 271 is an effort to correct inequities that have been perpetrated by the Department of Family Services. He referred to lines 25-28, page 1, and lines 5-8, page 2. He read portions of a letter received from Gary Wilson from Missoula. EXHIBIT 4 - see highlighted portions. He said DFS has some amendments to the bill.

Proponents' Testimony:

Hank Hudson, Director, Department of Family Services, said when people criticize the Department and suggest changes, they think it's just hitting a blank wall, but they listen to every suggestion and do make some changes. He said the Department's policy is to place children with the extended family, whenever

possible, because they offer the best opportunity for children to be in a permanent home and stay in contact with family, and usually, relatives make the best homes for the children.

EXHIBIT 5. He offered amendments page 1, lines 25 and 26, and page 2, line 6.

He said another reason for placing children with extended family is, many times the family is available and doesn't ask for reimbursement or they choose to adopt the children. If placing children with family is not possible nor appropriate, for various reasons, children will be placed in foster care. The DFS must approve of the family or family member for safe placement of the child. DFS would like to use common sense in placements, but they must obey the law. If the law says the child must be placed with a relative and doesn't say "relative approved by the Department," the Department could be forced to place a child in a dangerous situation. They want to make sure SB 271 clarifies that DFS must approve the relative before a child's placement.

Mary Alice Cook, representing Advocate for Montana's Children, said she has been attending other hearings where children are testifying about the sexual abuse they have been doing to other children and what they received from family members, both immediate and extended family. She supports SB 271 if it's amended, for the protection of children.

Bob Torres, representing Montana Chapter of Social Workers, said that he supports the amendments to SB 271 because they offer clarification. He said the victims of abuse and neglect can best be treated within their own family because the family as a whole needs to be treated. The law, as it stands now, lumps together abuse, neglect, and endangerment. The law says that disfigurement is the standard by which physical abuse is set because it's fairly obvious, but sexual abuse is difficult to diagnose the patterns within generations of families because of the veil of secrecy and the burden of denial by the perpetrators and the victims.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR ECK said she remembers when this was discussed before. She asked about the financial disincentive when using family members for foster care.

Hank Hudson said many families want to have an informal resolution to these issues, but any child in the state's custody is Medicaid eligible and the child will be placed in a licensed foster home. Many families say they would like to take care of their nieces or nephews in their home but can't afford the health insurance for them. He deferred to **Shirley Brown**.

Shirley Brown, Administrator, Program Management Division, Department of Family Services, said there are licensing standards

for foster homes. If a child is placed with a relative and that relative does not meet the licensing standards, they would not be eligible for a foster home placement.

SENATOR ECK asked about subsidized adoptions. She wondered if the same shouldn't be applied to foster homes.

Shirley Brown said the federal government has been looking at including kinship care for subsidized adoptions.

SENATOR BAER asked SENATOR BURNETT if he has any objections to the proposed amendments.

SENATOR BURNETT said he has no objections to the amendments to either SB 270 or SB 271.

Closing by Sponsor:

SENATOR BURNETT said it would be a benefit to those who have been accused and are not guilty to have their record purged. There is no need for unproven derogatory things to be on an individual's record. DFS needs to set up criteria for the people they hire, so the abuse by DFS employees can be eliminated.

Hearing closed on SB 271.

Discussion:

SENATOR BENEDICT talked to the committee about the number of bills yet to be heard, limited amount of time left for hearings, and emphasized the need to hear the bills and act on them in a timely manner.

SENATOR FRANKLIN said there are a lot of bills yet to be heard and acted upon, but, in the past, they have taken time on contentious bills and have been given leeway during executive action to ask questions of those who could not testify during the hearing, to gain as much information as possible before making a decision on a bill.

{Tape: 1; Side: 2}

SENATOR SPRAGUE asked about time limits during executive session, whether the decision making be carried over to another day.

SENATOR BENEDICT said that is up to the Chairman of the committee to decide.

SENATOR BAER said all of the procedures in the committee will be fair, there will be no discrimination, and no imbalance, but the discretion will be up to the chairman on anything procedural.

EXECUTIVE ACTION ON SB 270

Motion/Vote: SENATOR BURNETT moved the AMENDMENTS TO SB 270 DO PASS. The motion CARRIED UNANIMOUSLY.

Motion/Vote: SENATOR BURNETT moved SB 270 DO PASS AS AMENDED. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 271

Motion/Vote: SENATOR BURNETT moved the AMENDMENTS to SB 271 DO PASS. The Do Pass motion for the AMENDMENTS TO SB 217 CARRIED UNANIMOUSLY.

Motion/Vote: SENATOR BURNETT moved SB 271 DO PASS AS AMENDED. The motion CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 1:45 PM


SENATOR LARRY BAER, Acting Chairman


KAROLYN SIMPSON, Secretary

LB/ks

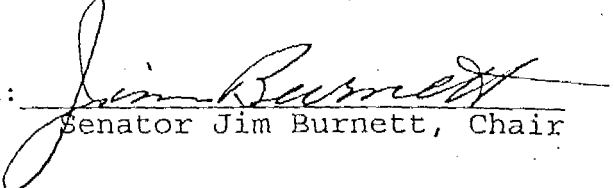
SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 8, 1995

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration SB 271 (first reading copy -- white), respectfully report that SB 271 be amended as follows and as so amended do pass.

Signed:


Senator Jim Burnett, Chair

That such amendments read:

1. Title, line 5.

Following: "FAMILY"

Insert: "UPON DEPARTMENT APPROVAL OF THE HOME"

2. Page 1, line 25.

Following: "from the"

Insert: "child's"

3. Page 1, line 26.

Strike: "pursuant to subsection (2)"

Strike: "in considering"

Insert: "when it is in"

Following: "child"

Insert: "and when the home is approved by the department"

4. Page 2, line 6.

Strike: "in considering"

Insert: "when it is in"

Following: "of the child"

Insert: "and when the home is approved by the department"

-END-

 Amd. Coord.

 Sec. of Senate

331623SC.SRF

Senator Jim Barnett
Montana State Senate

Mary D. Wilson
1617 Van Lommen ave
Cheyenne, Wyoming
82001

Dear Senator Barnett,

Thank you for your letter dated January 26th 1995.
Due to my having to leave Montana because of DFS I
never got your letter until now.

I was living in Missoula separate from
my wife who lives at 1000 Russell St, Missoula. I
was waiting for DFS to let my wife and I continue
to live together however her Caseworker - John
Jefferies had other ideas, He had my wife get a
restraining order against me by way of threat saying
if you don't you'll never see your kids again. So I
moved out of the house and was homeless from Sept 1,
1995 until now. John Jefferies made up his own rules
going far beyond any legal limits of DFS, he also
went to both of my jobs and had me fired. He
had told me in court I had better leave town.
I had no right to see my wife and step children.
My wife once stated to him that she thought he
didn't have the right nor the power to do what he
was doing and he said yes he did, he had all the
power he needed as he was DFS.

When this case first started we were
told we had charges of abuse, emotional, and
also sexual. No charges were ever brought against
either of us and even tho we were told there
were tons of evidence none was ever shown us

eventhough we asked for it. Our attorney's worked for DFS and refused to discuss any important matter and never once intervinied in our behalf. We were told at the very start that we would not need an attorney and questioned us regularly as to if we had contacted an attorney or not.

The main goal of the DFS was to separate myself from my wife Carol so they could better get her to comply through threats and otherwise. They were able to do this with the help of the Court, police and the County attorney's office saying I was a danger person and they never ever gave proof of this.

Thangh a Contract and a program plan made up by DFS it states she cannot ever see me, she cannot ever leave the County of Missoula County and she must comply with the program plan or she could again lose the three children who they claim are in need of care. There is nothing whatsoever in this plan stating a plan for me to ever be in our family ever.

During the onset of DFS action against us both my wife and I went to the DFS's psych Counselor Dr. Dudley. After just one hour of talking with him he wrote up a rather lengthy report for DFS that I shouldn't be with the family and that I was a threat to the children. All mental testing has concluded that I had never sexually molested the children or my wife Carol Wilson. They still tell Carol they have

for drug/alcohol, I drink rarely and the only drug I take is for my high blood pressure prescribed to me by a doctor. At this writing I work as a drug/alcohol counselor and have worked in psych sixteen years. If I was to drink to excess I would end up dead or in a hospital dying as my system would have a break down due to health reasons.

My wife Carol does have the children back but only because she must follow the rules of DFS and not have anything to do with me ever, they keep telling her this is what she wants but this isn't the way she wants it. She just doesn't want to lose the three kids who we both love and care for. I have complied by leaving Missoula though really a must thing due to DFS actions in order to save my wife the loss of the kids. DFS also had ordered her to divorce me and that they would see that she'd be able to get one. The Court order obtained by DFS states she cannot have any contact with me whatsoever. We however go against this Court order and we write and call each other.

John Jefferies, caseworker for DFS is no longer with the state and no reason was ever given my wife as to sudden departure. John Jefferies went far beyond the limits of the DFS rules and guidelines and took an interest in my wife's private being and tried to brainwash as well as emotionally break her down to do what they wanted her to do. Even extra money and gifts were offered when it looked like she

John Jefferies showed up at my wife's house day and night without prior notice and entered and at times made a search of the house. We both consider this as Gestapo tactics and far beyond reason.

Since my leaving Missoula on Dec. 24th 1951, several phone calls were made by John Jefferies to my former employers and friends and were told things about what I did to my wife and step kids out of abuse, sexual and otherwise. This had to be done by John Jefferies through obtaining a copy of my job application where I had been working until I was fired. This proves the D.F.S. will use any means possible legal or otherwise to ruin a man's or woman's life and family.

In this land of ours we are supposed to have rights and laws to protect us but what happens when one agency such as D.F.S. puts themselves above the law and through illegal means breaks a family up and tells people who they can see he married to, and have a life with. Do they care whose lives they hurt or the pain they cause? I say no.

Respectfully Submitted,

Ray D. Wilson

Amendments to Senate Bill No. 271
First Reading Copy

Requested by
For the Committee on Public Health, Welfare, and Safety

Prepared by Susan Byorth Fox
February 8, 1995

1. Title, line 5.

Following: "FAMILY"

Insert: "UPON DEPARTMENT APPROVAL OF THE HOME"

2. Page 1, line 25.

Following: "from the"

Insert: "child's"

3. Page 1, line 26.

Strike: "pursuant to subsection (2)"

Strike: "in considering"

Insert: "when it is in"

Following: "child"

Insert: "and when the home is approved by the department"

4. Page 2, line 6.

Strike: "in considering"

Insert: "when it is in"

Following: "of the child"

Insert: "and when the home is approved by the department"

Closing by Sponsor:

SEN. BURNETT reiterated the benefits of striking unfounded reports from someone's record.

{Tape: 2; Side: A; Approx. Counter: 850; Comments: NA.}

HEARING ON SB 271Opening Statement by Sponsor:

SEN. JIM BURNETT, SD 12, Luther, explained that this bill would define the policy for the Department of Family Services (DFS) to try to place a child who is removed from the home with an approved extended family member. He drafted an amendment to further clarify conditions.

Proponents' Testimony:

Hank Hudson, Director of the DFS feels this is a good policy to help provide continuity for the child.

{Tape: 2; Side: B; Approx. Counter: 000; Comments: n/a.}

Bob Torres, National Association of Social Workers, stated that people needed to be aware of policies and terms encoded by the legislature that will be consistent.

Opponents' Testimony: NoneInformational Testimony: NoneQuestions From Committee Members and Responses:

REP. BRAD MOLNAR asked if juvenile probation officers have to check with the DFS before making any placements. Mr. Hudson replied that any reference to what probation officers do should be made in the youth court and be coordinated with the DFS.

Closing by Sponsor:

SEN. BURNETT expressed his appreciation for the support and consideration on this bill.

{Tape: 2; Side: B; Approx. Counter: 118; Comments: NA.}

HEARING ON SB 217Opening Statement by Sponsor:

SEN. STEVE DOHERTY, SD 24, Great Falls, described the bill as saying that if there is a vacancy in the department that the

agency does not have to hire within the department. The qualifications would be clarified for such an appointment. Copies of the bill would be sent to the federally-recognized as well as the unrecognized tribes of Montana.

Proponents' Testimony:

Hank Hudson, Director of the Department of Family Services (DFS).
EXHIBIT 1

Mary Alice Cook, Advocates for Montana's Children supported this bill.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

REP. CAROLYN SQUIRES asked Mr. Hudson if this bill will nullify the Reduction In Force (RIF) employees already in the registry from HB 522. Mr. Hudson explained that process goes from internal applicants to RIF employees to outside applicants. This bill would provide an enhanced opportunity for those on the RIF list, and this will not eliminate the individual's opportunity within the department to become this specialist for Native American children.

Closing by Sponsor:

SEN. DOHERTY thanked the committee.

EXECUTIVE ACTION ON SB 217

Motion/Vote: REP. JOHN BOHLINGER MOVED THAT SB 217 BE CONCURRED IN. The motion carried unanimously.

EXECUTIVE ACTION ON SB 271

Motion: REP. BRAD MOLNAR THAT SB 271 BE CONCURRED IN.

Motion: REP. LIZ SMITH MOVED TO AMEND SB 271.

Discussion:

REP. DEB KOTTEL commented that more work needed to be done on the wording of the amendments.

CHAIRMAN GRIMES postponed executive action on SB 271 until the next Monday.

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Human Services 3. Aging

DATE 3-3-95

BILL NO. SB 271 SPONSOR(S) Burnett

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
John Melcher Jr.	OIES		
MARY ALICE OAK	ADV. for MTG CHILDREN	✓	
Laure Kartuk	Christian Coalition	✓	
Bob Torres	NASW	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

workers and psychologists want to be able to say they are engaging in the practice of professional counseling.

{Tape: 3; Side: B; Approx. Counter: 00; Comments: NA.}

It was agreed that Mr. Niss and Ms. McCue would meet and work out their issues before executive action takes place.

Closing by Sponsor:

SEN. KEATING reiterated that the effort was to protect the phrase "professional counselor" and to protect the public so they can get what they are looking for.

{Tape: 3; Side: B; Approx. Counter: 80; Comments: NA.}

EXECUTIVE ACTION ON SB 271

Discussion:

REP. DEB KOTTEL recounted that SB 271 looked at the issue of when the Department of Family Services makes a decision to remove a child from their home they should try to place the child in the home of an extended family member.

David Niss, Legislative Council, explained the department's amendments.

Motion/Vote: REP. DEB KOTTEL MOVED TO AMEND SB 271. The motion carried unanimously.

Motion/Vote: REP. LOREN SOFT MOVED THAT SB 271 BE CONCURRED IN AS AMENDED. The motion carried 13-0 with REPS. SIMON, HAGENER and SQUIRES voting by proxy.



HOUSE STANDING COMMITTEE REPORT

March 13, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Human Services and Aging report that Senate Bill 271 (third reading copy -- blue) be concurred in as amended.

Signed: _____

Duane Grimes
Duane Grimes, Chair

Carried by: Rep. Kottel

And, that such amendments read:

1. Title, line 5.

Following: "DEPARTMENT"

Insert: "OF FAMILY SERVICES' "

2. Title, line 6.

Following: "HOME;"

Insert: "REQUIRING A DEPARTMENT INVESTIGATION OF PERSONS LIVING
IN THE HOME;"

3. Page 1, line 29.

Following: "facility."

Insert: "Prior to approving a home, the department shall
investigate whether anyone living in the home has been
convicted of a crime involving serious harm to children."

-END-

Committee Vote:

Yes 13, No 0.

580850SC.Hbk

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Human Services and Aging Committee

DATE 3-10-95 BILL NO. SB271 NUMBER

MOTION: Rep Soft DO Pass as amended

Unanim

NAME	AYE	NO
Rep. Duane Grimes, Chairman		
Rep. John Bohlinger, Vice Chairman, Majority	✓	
Rep. Carolyn Squires, Vice Chairman, Minority	✓	
Rep. Chris Ahner	✓	
Rep. Ellen Bergman	✓	
Rep. Bill Carey	✓	
Rep. Dick Green	✓	
Rep. Toni Hagener	✓	
Rep. Deb Kottel	✓	
Rep. Bonnie Martinez	✓	
Rep. Brad Molnar	—	—
Rep. Bruce Simon	✓	
Rep. Liz Smith	✓	
Rep. Susan Smith	—	—
Rep. Loren Soft	✓	
Rep. Ken Wennemar	✓	

13-0